



BellSouth Telecommunications, Inc.

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July 16, 2003

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VIA HAND DELIVERY

Hon. Deborah Taylor Tate, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: Delta Phones, Inc.
Docket No. 03-00425

Dear Chairman Tate:

Enclosed please find an original and fourteen copies of the Answer of BellSouth Telecommunications, Inc. to Complaint and Petition for Expedited Relief and Counterclaim. A copy of the enclosed has been provided to counsel of record for DeltaPhones, Inc.

Very truly yours,

Guy M. Hicks

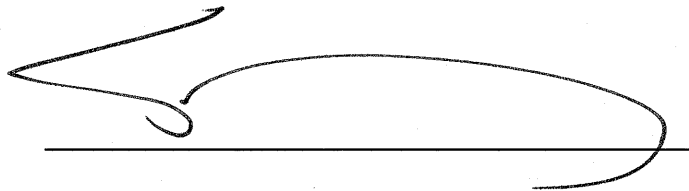
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CERTIFICATE OF SERVICE

I hereby certify that on July 16, 2003, a copy of the foregoing document was served on the parties of record, via the method indicated:

- ☐ Hand
- ☐ Mail
- ☐ Facsimile
- ☐ Overnight
- ☒ Electronic

Henry Walker, Esquire
Boult, Cummings, et al.
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A handwritten signature in dark ink, appearing to read "H. Walker", is written over a horizontal line.

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

In Re: *Interconnection Agreement negotiated by BellSouth Telecommunications, Inc. and Delta Phones, Inc., Pursuant to Section 251, 252 and 271 of the Telecommunications Act of 1996*

Docket No. 03-00425

**ANSWER OF BELL SOUTH TELECOMMUNICATIONS, INC. TO COMPLAINT
AND PETITION FOR EXPEDITED RELIEF AND COUNTERCLAIM**

BellSouth Telecommunications, Inc. ("BellSouth") responds to the Complaint and Petition for Expedited Relief of Delta Phones, Inc. (hereinafter "Delta Phones" or "DPI") and states the following:

1. BellSouth is without knowledge as to the allegations of the first paragraph of the Complaint. Accordingly, these allegations are denied.
2. The allegations of paragraph 2 of the Complaint are admitted.
3. As to the allegations of paragraph 3, BellSouth admits that the Interconnection Agreement is accurately quoted. All other allegations are denied.
4. The allegations of paragraph 4 of the Complaint are denied.
5. The allegations of paragraph 5 of the Complaint are denied.
6. Further, as to paragraphs 3 through 5 of the Complaint, these paragraphs are entitled "Summary of Complaint." BellSouth has denied these allegations above because they are, except as noted above, false. A more accurate summary of the current situation can be stated simply: BellSouth has provided service to Delta Phones pursuant to the Interconnection Agreement between them, and Delta Phones has refused to pay for that service. Rather than paying its debt to BellSouth, Delta Phones has sought to avoid its financial obligations by raising

a series of frivolous disputes, and has now filed a frivolous complaint for the same purpose. As of June 25, 2003, Delta Phones owes BellSouth \$2,796,793.15 for service provided by BellSouth in the eight states in BellSouth's region in which DPI does business. For service provided in the state of Tennessee, Delta Phones owes BellSouth \$588,141.46, as of June 25, 2003. The Interconnection Agreement specifies a process for raising billing disputes (Attachment 7, § 2). Through this process, Delta Phones has disputed \$120,621.83 of its debt. Thus, of its total indebtedness in Tennessee, Delta Phones currently owes BellSouth \$467,519.63¹ that DPI has never disputed. Further, after thorough investigations of the various disputes, BellSouth credited Delta Phones in the amount of \$18,048.96, and rejected invalid disputes for billings that total \$102,572.87. Delta Phones has made no payments whatsoever to BellSouth, even of the undisputed debt, in the last 115 days.

7. Again, Delta Phones' filing of this Complaint (and the allegations therein) is simply a ploy to avoid paying to BellSouth money that is properly owed. Contrary to Delta Phones' allegations, whenever Delta Phones has disputed an indebtedness to BellSouth, BellSouth has thoroughly investigated the dispute and responded fully and completely to Delta Phones' claims. As noted above, in the vast majority of instances in which Delta Phones has followed the appropriate process to raise a dispute regarding its debt, BellSouth has determined that the dispute has no merit whatsoever. The allegations of Delta Phones in the Complaint that BellSouth has in any way acted improperly are also completely without merit.

8. Delta Phones has categorized all of its various claims as billing disputes. (See, Delta Phones' Summary of Complaint). For five of the eleven counts of the Complaint, however, this description is not accurate. Instead, Delta Phones has raised in these counts claims

¹ This amount refers specifically to DPI's debt in Tennessee. In other portions of this Answer, monetary references are to debts owed or disputed region-wide (e.g., paragraphs 29 and 30).

for consequential damages that not only are factually without merit, but that are legally improper. For the reasons that will be described below, these portions of Delta Phones' Complaint should be summarily dismissed. Further, the portions of the Complaint that do raise billing disputes are without merit. Thus, the entire Complaint should ultimately be rejected.

9. In response to the allegations of Paragraph 6, BellSouth admits that the dispute resolution process has been exhausted. BellSouth denies that there is any legitimacy to the contentions of Delta Phones and denies all other allegations of this paragraph.

10. In response to Paragraph 7 of the Complaint, BellSouth admits that the Tennessee Regulatory Authority ("Authority" or "TRA") has jurisdiction to "interpret and enforce the terms of the Parties' Agreement," that is, to resolve the aspects of the Complaint that relate to disputes as to the amount due under the Agreement. BellSouth denies that this Authority has jurisdiction to award the monetary damages that DPI appears to seek for alleged consequential damage.

11. As to the allegations of paragraph 8 of the Complaint, BellSouth admits that DPI and BellSouth executed an Interconnection Agreement, but states that DPI executed the Interconnection Agreement on August 23, 2002 and BellSouth executed it on August 26, 2002.

12. BellSouth admits the allegations of paragraph 9 of the Complaint.

13. BellSouth is without knowledge of the allegations of paragraph 10 of the complaint regarding management changes at Delta Phones, or the commissioning of a preliminary audit. Thus, these allegations are denied. BellSouth specifically denies the allegations that it rendered bills to Delta Phones that contained "numerous, potentially significant billing errors."

14. In response to paragraph 11, BellSouth admits that during the months of January and February 2003, DPI submitted to BellSouth approximately one hundred of the thousands of

disputes on Billing Adjustment Request forms (“BAR forms”) that DPI ultimately submitted. BellSouth denies the remaining allegations of this paragraph. More specifically, in every instance in which an appropriate BAR form was transmitted to BellSouth by DPI, BellSouth thoroughly researched the dispute(s), and promptly responded. In most instances, BellSouth’s investigation of any given dispute revealed that Delta Phones’ respective claim had no merit. In some instances, adjustments were in order, and in each instance in which this was the case, the adjustment was made. Throughout this process, BellSouth provided an appropriate level of detail to DPI. Further, of the \$252,258.07 in adjustments that were made region-wide, \$248,662.81 of these adjustments were not associated with true billing disputes. Instead, the adjustments were the result of the process by which CLECs receive CREX credits (pursuant to a Carrier Notification Letter, SN91082469)². Thus, a total of \$3,595.26 of the disputes that DPI submitted region-wide actually had merit³.

15. The allegations of paragraph 12 are denied. A complete and accurate statement of the pertinent facts is provided below in response to Count V.

16. The allegations of paragraph 13 are admitted.

17. In response to the allegations of paragraph 14, BellSouth admits that between February and May of 2003, there was a considerable amount of contact between BellSouth and DPI that related to the many disputes raised by DPI. BellSouth is without knowledge of the remaining allegations in this paragraph and they are, therefore, denied.

18. BellSouth admits the allegation of paragraph 15 that on April 25, 2003, BellSouth and DPI representatives met in an attempt to resolve the disputes raised by DPI. BellSouth denies the allegation that this meeting concerned “significant instances of over-billing” by

² This process is explained below in greater detail in the paragraph 27, in response to Count V.

³ Of the \$1,263,462.14 in disputes submitted region-wide, \$1,011,204.07 lacked merit and were denied.

BellSouth. All other allegations of paragraph 15 are denied. What actually occurred at the meeting was that representatives of Delta Phones generally claimed a variety of problems—some related to billing disputes, some unrelated--but provided little or no support or documentation of its claims. In many instances, DPI representatives were specifically informed by BellSouth personnel that BellSouth would be glad to investigate Delta Phones' complaints, but would require more information to do so. Delta Phones agreed to provide additional information, and agreed to submit disputes in the format required by the Interconnection Agreement. Despite these representations, Delta Phones failed to provide any additional information relating to most of the disputes. Delta Phones also agreed to pay at least some of the undisputed charges, but has subsequently failed to honor this promise as well.

19. BellSouth denies the allegations of paragraph 16. Paragraph 16 contains a slightly more detailed rendition of the allegations set forth in paragraph 12. A complete, and accurate statement of the pertinent facts is provided hereinafter in response to Count V.

20. BellSouth denies the allegations of paragraph 17 of the Complaint. More specifically, contrary to Delta Phones' allegations, BellSouth has handled the massive quantity of disputes raised by Delta Phones (almost all of which lacked merit) in a timely and prompt fashion. Of the thousands of individual disputes that Delta Phones has submitted to BellSouth during 2003, there have been a total of five adjustment requests submitted by Delta Phones (totaling \$2,080.62) that were misplaced by BellSouth. BellSouth requested that Delta Phones provide it with additional information to allow it to correct this error. In four of the five instances, the adjustment request forms were later found, and BellSouth processed the adjustment requests and made the adjustments. In the fifth instance (which relates to a BAR form submitted January 20, 2003), Delta Phones has failed to provide follow-up information.

The total amount related to this single adjustment request is \$873.00 and is not related to service rendered in Tennessee.

21. In response to the allegations of paragraph 18, BellSouth states that on May 20, 2003, it did deny Delta Phones access to the LENS interface necessary for it to place further orders (as opposed to May 16, 2003, as alleged in the Complaint). BellSouth's action in doing so was entirely proper, given the fact that Delta Phones had breached the Interconnection Agreement by failing to pay for services properly rendered pursuant to the Agreement. Further, BellSouth's actions in this regard are expressly authorized by the Agreement (Attachment 7, § 7 - 7.1.3). BellSouth also admits that it informed Delta Phones of the amount of its outstanding indebtedness on May 29, 2003 and requested payment at that time. All other allegations of this paragraph are denied.

22. Paragraph 19 of the Complaint does not allege facts to which an answer is required, but is merely a catalog of conclusory allegations. Nevertheless, BellSouth states that these allegations are false and denies that there is any factual basis to support these conclusory allegations.

23. In paragraph 20 of the Complaint (Count I), Delta Phones alleges that BellSouth has billed it for service to Delta Phones' customers after those customers were disconnected. BellSouth denies these allegations. In the various BAR forms Delta Phones submitted to BellSouth, Delta Phones claimed that it had been billed at various times for service to 2993 customers after DPI disconnected service to these customers. When disputes involving a substantial number of individual claims or customers are submitted, BellSouth's routine practice is to investigate by sampling the total number of disputed items. This industry standard process is described more fully in the Billing and Collections Section of the BellSouth website, which

can be accessed by CLECs. This routine practice was followed in this particular instance. Specifically, of the 2993 customers whose service DPI claimed had been disconnected, BellSouth sampled approximately 380. In every single instance, BellSouth determined that the customer in question had not, in fact, been disconnected by Delta Phones during the time period of the disputed invoices. On this basis, Delta Phones claim was properly denied. BellSouth also denies the allegation that \$19,016.52 of the debt is subject to disputes relating to this issue.

24. The allegations of paragraph 21 of the Complaint are denied. In this paragraph (Count II), Delta Phones claims that BellSouth billed it for service to customers that were not DPI customers. This allegation was the basis of most of the disputes that DPI submitted to BellSouth during the early part of 2003. In all, DPI submitted dispute forms in which it claimed that BellSouth has billed for 12,222 customers that were not actually DPI customers. In keeping with the sampling process described above, BellSouth investigated 2343 of the specific customer-related disputes. In every single instance, BellSouth's investigation determined that the customer was in fact a customer of Delta Phones during the time period covered by the disputed invoices. Accordingly, this dispute was appropriately denied by BellSouth. Given the fact that Delta Phones serves approximately 12,000 customers in the eight states in BellSouth's region in which it does business, this means that Delta Phones submitted invalid disputes of this type alone that appear to be greater in number than its entire customer base. Thus, the only logical conclusion is that DPI submitted multiple disputes for a single customer/line in many instances.

25. BellSouth denies the allegations of paragraph 22. In this paragraph (Count III), Delta Phones claims that BellSouth has improperly calculated and assessed UNE-zone charges. Delta Phones first raised this dispute at the April 25, 2003 meeting, but failed to provide

BellSouth with any information that would allow BellSouth to investigate. At that time, Delta Phones requested that BellSouth provide it with pertinent electronic information. In response to this request, BellSouth referred DPI representatives to a website that addressed the sort of general questions that DPI had posed at the meeting. However, Delta Phones never submitted BAR forms for this dispute and never provided information that would allow BellSouth to investigate this alleged dispute.

26. BellSouth denies the allegations of paragraph 23 of the Complaint. In this paragraph (Count IV), Delta Phones claims that BellSouth has double billed it for customers to whom Delta Phones provided service, first on a resale basis, then subsequently on a UNE basis. In other words, Delta Phones purchased services from BellSouth for resale initially, then subsequently converted to UNE orders. This dispute was raised for the first time in the meeting of April 25, 2003. At that time, BellSouth requested that Delta Phones provide it with additional information. On May 6, 2003, in an e-mail, rather than through the BAR form used for disputes, Delta Phones identified the customers for which it contended that it had been double billed. There were a total of 1539 customers. BellSouth sampled 40 of these customer-specific disputes. In every instance, BellSouth determined that the conversion from resale to UNE-P had been done by a single "C Order." These orders are designed so that once the order is completed, billing stops for resale and commences for UNEs simultaneously. In other words, BellSouth's investigation determined that there was no double billing. Moreover, the allegations relate to a regional process that does not pertain in Tennessee. DPI is not certified in Tennessee to provide service in any manner other than resale, and, consistent with this fact, has not ordered any UNEs from BellSouth to be used in Tennessee. This Count should, therefore, be summarily dismissed.

27. BellSouth denies the allegations of paragraphs 24 and 25 of the Complaint. DPI did not submit \$200,000 of CREX disputes prior to April 25, 2003, the assessment of CREX charges by BellSouth was not "improper" and DPI's claims as to the mishandling of the CREX adjustments by a BellSouth employee are false as well.

28. Generally, the process of applying CREX credits has nothing to do with billing errors per se. To the contrary, this process occurs whenever a CLEC is serving a customer that, for whatever reason, has insufficient credit to establish an account under normal circumstances. Frequently, in these circumstances, service by any given carrier is established with a block placed on toll calls. Normally, there are tariffed non-recurring and monthly recurring charges associated with toll blocking. However, for these credit-challenged customers, these charges are waived. When a CLEC serves such a customer, the CLEC is charged automatically under the current procedure. Then, the CLEC submits the appropriate form to BellSouth, and BellSouth issues a credit to the CLEC. Thus, the CREX credit process is not a process to address billing disputes, but rather a means to issue an adjustment, or credit, to the CLEC as part of the normal billing process. This process is detailed in Carrier Notification Letter Number SN91082469.

29. Contrary to the allegations of Delta Phones, prior to April 25, 2003, it only submitted to BellSouth eighteen requests for CREX credits. These requests totaled \$36,811.79. BellSouth processed these requests, and in every instance in which they were appropriate, promptly applied credits, including any applicable late charges. The credits totaled \$42,785.53 including late charges.

30. At the meeting on April 25, 2003, representatives of Delta Phones claimed for the first time that they had previously submitted to BellSouth over \$200,000 in adjustment requests relating to CREX charges. At this meeting, Delta Phones' representatives also claimed that they

had faxed to BellSouth the BAR applications relating to the \$200,000 in disputes. This claim is false. BellSouth did not receive BAR forms relating to these CREX charges at any time prior to April 25, 2003. Moreover, one would assume that if Delta Phones actually had faxed these forms, it would have retained copies. Nevertheless, when BellSouth made requests to review the forms DPI claims to have sent, representatives of Delta Phones were never able to produce these forms.

31. Subsequent to the April 25, 2003 meeting, Delta Phones did submit CREX related adjustment requests on April 30, 2003 and May 13, 2003. Their requests were submitted by e-mail on these two days and totaled \$550,906.39. In each instance, BellSouth reviewed the requests and credited Delta Phones in the appropriate amount within two business days. More specifically, BellSouth credited Delta Phones in the amount of \$205,877.28. The total amount denied was \$339,065.37, out of a total of \$587,718.18⁴. Many of the denials of the credit requests submitted by Delta Phones were attributable to the fact that Delta Phones submitted many duplicate requests. In other words, Delta Phones sent an e-mail to a BellSouth representative requesting well over \$200,000 in CREX credits, and then e-mailed requests for credits for the exact same items to the BellSouth dispute mailbox. Once BellSouth discovered this duplication, these adjustment requests were processed, and Delta Phones was credited with the correct amount, based on the requests that were valid.

32. BellSouth denies the allegations of paragraphs 26 and 27 of the Complaint. In these paragraphs (Count VI), Delta Phones contends that BellSouth has failed to provide it with electronic billing records. At the outset, BellSouth notes that this count should be summarily dismissed because it is not legally viable for two reasons. First, under the Agreement

⁴ This figure includes both the \$550,906.39 in disputes submitted on April 30, 2003 and May 13, 2003, and the \$36,811.79 in disputes submitted prior to April 25, 2003.

(Attachment 7, Section 2.2), a billing dispute is “a reported dispute of a specific amount of money actually billed by either party.” Some of the disputes alleged by Delta Phones are, in fact, billing disputes as defined by the Agreement. In other words, Delta Phones has alleged that BellSouth has over billed it for services rendered. In contrast, in Count VI, Delta Phones claims that BellSouth has failed to provide it with electronic billing information and that this “has resulted in significant damage to DPI’s business.” (Complaint, par. 27). In other words, Delta Phones is not raising a billing dispute, but rather asserting a claim for consequential, monetary damages. Although the TRA has the jurisdiction to resolve disputes arising from the agreement, it does not have the legal authority to assess and award monetary damages. Thus, Count VI of the Complaint should be summarily dismissed because it raises issues over which the Authority does not have subject matter jurisdiction.

33. Count VI should also be dismissed for a second reason: claims for consequential damages are expressly prohibited by the language of the contract. Specifically, the Interconnection Agreement between the parties provides that “under no circumstances shall a party be responsible or reliable for indirect, incidental or consequential damages, including, but not limited to, economic loss, or lost business or profits, . . . (General Terms and Conditions, Section 7.3.4) (emphasis added). This is precisely the type of claim that Delta Phones is attempting to assert, and again, it is expressly prohibited by the Agreement.

34. Finally, even if Delta Phones’ claim for damages were legally viable, and even if there were a factual basis for the allegation that BellSouth has somehow failed to provide DPI with electronic billing capabilities, Delta Phones still has failed to allege facts that support its damage claim. Delta Phones contends that it must receive billing information from BellSouth in order to bill its end users for the service that it provides to them. In this regard, the Complaint

alleges that "DPI has been unable from a practical perspective to issue accurate and timely bills to its customers for the services it provides using BellSouth's facilities." (Complaint, par. 28). However, the reality is that Delta Phones bills its users according to the tariffed rates for the services its customers have ordered. The amount that Delta Phones bills the end users is known to Delta Phones, and has no direct relation to what BellSouth bills Delta Phones on a "wholesale" basis. Thus, the allegation is not accurate.

35. BellSouth denies the allegations of paragraphs 28 and 29 of the Complaint. In these paragraphs (Count VII), Delta Phones alleges that BellSouth failed to provide it with ADUF billing records in electronic form. As with Count VI, this is not a billing dispute, but rather a claim for consequential damages. As explained in response to Count Six, the award of consequential damages is beyond the jurisdiction of the TRA, and is barred by the express terms of the Interconnection Agreement between the parties. For this reason, Count VII should also be dismissed.

36. Moreover, even if Delta Phones claim in Count VII were legally cognizable, the allegations are not true. In order to make arrangements for electronic billing, it is necessary for the CLEC to provide BellSouth with particular information. The required information is clearly set forth on BellSouth's website, and has also been communicated specifically to Delta Phones on numerous occasions. One of these communications was a letter from BellSouth to Delta Phones dated June 2, 2003, in which a representative of BellSouth informed DPI of a number of different options for receiving ADUF records, and provided in specific detail the necessary steps to arrange for electronic billing (See copy of June 2, 2003 letter, attached hereto as Exhibit A). After June 2, 2003, Delta Phones did provide the information necessary to arrange for one of the types of electronic billing, and BellSouth promptly undertook to respond to Delta Phones'

request. Contrary to Delta Phones' allegations, the delays in providing electronic billing to Delta Phones were not the fault of BellSouth's, but rather attributable to the fact that Delta Phones chose to elect a comparatively complex electronic billing alternative, and then failed for a substantial period of time to provide BellSouth with the information necessary to provide such electronic bills to Delta Phones.

37. BellSouth denies the allegations of paragraphs 30, 31, and 32 of the Complaint. In these paragraphs (Count VIII), Delta Phones contends that a BellSouth technician (or technicians) made improper contact with customers of Delta Phones in a way that interfered with DPI's business relation with the customer, and caused DPI some unspecified financial damage. Thus, as with the two preceding counts, this is a claim for consequential damages that is beyond the scope of the jurisdiction of the TRA. Further, this claim also is expressly barred by the Agreement.

38. Moreover, although Delta Phones stated in very general terms meeting at the April 25, 2003 meeting, allegations similar to those in the Complaint, it has not at any time provided BellSouth with any information that could be utilized to investigate this alleged conduct.

39. BellSouth denies the allegations of paragraph 33 of the Complaint. In this paragraph (Count IX), Delta Phones claims that BellSouth has assessed late charges against it that are invalid. This count of the Complaint is fundamentally derivative of Delta Phones' other contentions. Again, Delta Phones has raised a myriad of disputes as the ostensible basis for refusing to pay its debt to BellSouth. As Delta Phones has refused to make timely payments, late charges have accrued. In Count IX, Delta Phones essentially argues that since its disputes are well taken (and money is not owed to BellSouth), the late charges on the debt are invalid.

However, because Delta Phones' claims on this point are wrong, and because it does, in fact, owe to BellSouth all that BellSouth has billed to it, this derivative claim must fail.

40. BellSouth denies the allegations of paragraph 34 and 35 of the Complaint. In this paragraph (Count X), Delta Phones claims that BellSouth has refused to remove RSCP blocks. Delta Phones essentially alleges that it can no longer perform certain functions as a result of its being denied access to the preordering and ordering interfaces. Thus, this claim is entirely derivative of the appropriate action that BellSouth took on May 20, 2003, when it denied Delta Phones continued access to the LENS interface as a result of DPI's failure to meet its financial obligations under the Interconnection Agreement. As set forth above, BellSouth's action was expressly authorized by the Agreement (Attachment 7, § 7 - 7.13). Since BellSouth's denial of access to Delta Phones is appropriate (given DPI's refusal to pay its debt), Delta Phones has no claim for alleged "damages" arising from this denial. Moreover, Delta Phones, once again, appears not to raise a billing dispute, but rather a claim that BellSouth's actions have resulted in consequential damages. For the reasons stated previously, the claim is not legally cognizable, and, for this additional reason, Count X should be dismissed.

41. BellSouth denies the allegations of paragraph 36 of the Complaint. In this paragraph (Count XI), Delta Phones alleges that BellSouth has refused to allow Delta Phones to disconnect customers. Once again, however, this claim essentially amounts to the contention that Delta Phones has been financially harmed by its inability to utilize the LENS interface, to which it has been denied access because it failed to meet its financial obligations to BellSouth. Since the denial of access to LENS by BellSouth was appropriate, Delta Phones has no claim. Moreover, Delta Phones appears, once again, to seek consequential damages, as opposed to

raising a billing dispute. These consequential damages are not legally viable for the reasons stated previously and the claim should be summarily dismissed.

42. Moreover, in this case, even if Delta Phones has raised a legally cognizable claim, its factual allegations are simply wrong. Since Delta Phones was denied access to the LENS interface, it has, in fact, submitted manual disconnect orders to BellSouth, and BellSouth has processed these orders as they have been received. Further, in some instances, Delta Phones has sent to BellSouth disconnect orders for customers that were actually not DPI's customers. Thus, even if there were a legal basis for Delta Phones to assert the claim at issue, the facts alleged are not true.

43. BellSouth is without knowledge of the allegations of paragraphs 37 and 38, and these allegations are, therefore, denied.

44. BellSouth denies all allegations of the Complaint not specifically admitted.

WHEREFORE, BellSouth requests (1) that the TRA summarily dismiss Counts VI, VII, VIII, X and XI, and (2) that Delta Phones' Plea for Expedited Relief be denied in its entirety.

COUNTERCLAIM

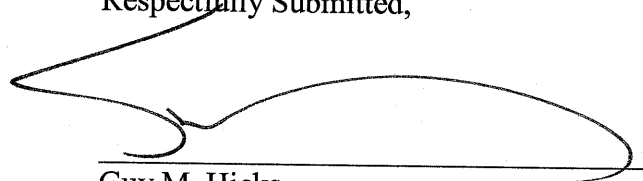
45. BellSouth hereby incorporates by reference the previous paragraphs numbered 1 through 44.

46. As stated previously, this Complaint and Petition is essentially an attempt by a company that has refused to pay any of its indebtedness to BellSouth over the past four months to delay payment even further. BellSouth has rendered service to Delta Phones, pursuant to the rates, terms and conditions of the Interconnection Agreement between the parties. As a result, Delta Phones is indebted to BellSouth in the amount of \$588,141.46 for services rendered in Tennessee. DPI has unjustifiably refused to pay this amount by raising a variety of specious

billing disputes and claims for consequential damage. DPI, however, is legally liable for the entire amount of the debt, and its contentions to the contrary are without merit. DPI should not be allowed to delay termination of its service based on claims that lack merit. Each day that passes results in a greater amount of indebtedness which BellSouth may never be able to recover.

WHEREFORE, BellSouth respectfully requests the TRA to enter an Order finding in BellSouth's favor, establishing the above-identified amount of the indebtedness of Delta Phones to BellSouth, and ordering Delta Phones to immediately pay the indebtedness in full.

Respectfully Submitted,



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